

REMARKS

Claims 1-11, 15, and 17-23 are pending in the application and are at issue.

A preliminary amendment was filed in this application on April 14, 2006. In that preliminary amendment, claims 12-14 and 16 were cancelled and new claims 17-23 were added to the application.

Amended claims 4-7 of the preliminary amendment contained an obvious typographical error by reciting a hydrogel rather than a process. The present amendment corrects this obvious typographical error. Support for this amendment can be found in original claims 4-7, which recite a process.

In the recent Office Action, it is noted that claims 1-16 were subjected to a restriction requirement. Apparently, the examiner inadvertently failed to consider the preliminary amendment filed on April 14, 2006. Accordingly, it is submitted that the claims should be restricted as follows, based on the present amendment and the preliminary amendment:

Group I, claims 1, 2, and 15, directed to a hydrogel

Group II, claims 3-11, 22, and 23 directed to a process for preparing a hydrogel.

The examiner did not consider method and composition claims 17-21, and accordingly, they were not included in Groups I or II.

In response to the restriction requirement, applicants hereby elect the invention represented by the claims of examiner's Group I, namely, claims 1, 2, and 15, with traverse, for examination on the merits at this time. It is submitted, however, that all claims 1-11, 15, and 17-23, i.e., examiner's Groups I and II, should be examined at this time. The novelty of the invention is defined in the claims of both Group I and Group II, which are not two independent and distinct inventions because the statutory requirements of 35 U.S.C. §121, namely, independence and distinctness, are not present herein.

The inventions of examiner's Groups I and II are not independent because the hydrogels and the processes set forth in the claims are so closely related that a search for applicants' elected hydrogel claims of examiner's Group I could encompass a search for the process claims of examiner's Group II.

In addition, even if the inventions are considered independent, there is no evidence that a search directed to both the hydrogel claims and the process claims would be a *serious burden* on the examiner, as is required by M.P.E.P. §803. ("If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." and "There must be a serious burden on the examiner if restriction is not required.")

Because search and examination of the entire application can be made without serious burden on the examiner, it would be wasteful of the time, effort, and resources of both the applicants and the Patent Office to prosecute the hydrogel and process claims in separate applications. Search and examination of both groups of claims in a single application would be much more efficient than requiring the Patent Office to prosecute the hydrogel and process claims in separate applications. Search and examination of both groups of claims in a single application would be much more efficient than requiring the Patent Office and applicants to do so in separate applications. Accordingly, it is submitted that all claims should be examined at this time.

Reconsideration and withdrawal of the restriction requirement are respectfully requested. An early action on the merits is solicited.

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Respectfully submitted,

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